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8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**  
10

11 BRANDON AVILA, an individual

12 Plaintiff,

13 vs.

14 TOURNEAU, LLC, a Delaware  
15 limited liability company; and DOES  
16 1 through 20, inclusive

16 Defendants.

Case No.: 8:24-cv-00939-FWS-JDE

**STIPULATED PROTECTIVE  
ORDER**

17  
18  
19 Based on the parties' Stipulation and for good cause shown, the Court finds  
20 and orders as follows.

21 1. PURPOSES AND LIMITATIONS

22 Discovery in this action is likely to involve production of confidential,  
23 proprietary or private information for which special protection from public  
24 disclosure and from use for any purpose other than pursuing this litigation may be  
25 warranted. Accordingly, the parties hereby stipulate to and petition the Court to  
26 enter the following Stipulated Protective Order. The parties acknowledge that this  
27 Order does not confer blanket protections on all disclosures or responses to  
28 discovery and that the protection it affords from public disclosure and use extends

1 only to the limited information or items that are entitled to confidential treatment  
2 under the applicable legal principles.

3 2. GOOD CAUSE STATEMENT

4 This action is likely to involve trade secrets, customer and pricing lists and  
5 other valuable research, development, commercial, financial, technical and/or  
6 proprietary information for which special protection from public disclosure and  
7 from use for any purpose other than prosecution of this action is warranted. Such  
8 confidential and proprietary materials and information consist of, among other  
9 things, confidential business or financial information, information regarding  
10 confidential business practices, videotapes that include information implicating  
11 privacy rights of third persons, or other confidential research, development, or  
12 commercial information, information otherwise generally unavailable to the  
13 public, or which may be privileged or otherwise protected from disclosure under  
14 state or federal statutes, court rules, case decisions, or common law.

15 Accordingly, to expedite the flow of information, to facilitate the prompt  
16 resolution of disputes over confidentiality of discovery materials, to adequately  
17 protect information the parties are entitled to keep confidential, to ensure that the  
18 parties are permitted reasonable necessary uses of such material in preparation  
19 for and in the conduct of trial, to address their handling at the end of the  
20 litigation, and serve the ends of justice, a protective order for such information is  
21 justified in this matter. It is the intent of the parties that information will not be  
22 designated as confidential for tactical reasons and that nothing be so designated  
23 without a good faith belief that it has been maintained in a confidential, non-  
24 public manner, and there is good cause why it should not be part of the public  
25 record of this case.

26 3. ACKNOWLEDGMENT OF UNDER SEAL FILING  
27 PROCEDURE

28 The parties further acknowledge, as set forth in Section 14.3, below, that

1 this Stipulated Protective Order does not entitle them to file confidential  
2 information under seal; Local Civil Rule 79-5 sets forth the procedures that must  
3 be followed and the standards that will be applied when a party seeks permission  
4 from the court to file material under seal. There is a strong presumption that the  
5 public has a right of access to judicial proceedings and records in civil cases. In  
6 connection with non-dispositive motions, good cause must be shown to support a  
7 filing under seal. See Kamakana v. City and County of Honolulu, 447 F.3d 1172,  
8 1176 (9th Cir. 2006), Phillips v. Gen. Motors Corp., 307 F.3d 1206, 1210-11 (9th  
9 Cir. 2002), Makar-Welbon v. Sony Electronics, Inc., 187 F.R.D. 576, 577 (E.D.  
10 Wis. 1999) (even stipulated protective orders require good cause showing), and a  
11 specific showing of good cause or compelling reasons with proper evidentiary  
12 support and legal justification, must be made with respect to Protected Material  
13 that a party seeks to file under seal. The parties' mere designation of Disclosure  
14 or Discovery Material as CONFIDENTIAL does not— without the submission  
15 of competent evidence by declaration, establishing that the material sought to be  
16 filed under seal qualifies as confidential, privileged, or otherwise protectable—  
17 constitute good cause.

18 Further, if a party requests sealing related to a dispositive motion or trial,  
19 then compelling reasons, not only good cause, for the sealing must be shown,  
20 and the relief sought shall be narrowly tailored to serve the specific interest to be  
21 protected. See Pintos v. Pacific Creditors Ass'n., 605 F.3d 665, 677-79 (9th Cir.  
22 2010). For each item or type of information, document, or thing sought to be  
23 filed or introduced under seal, the party seeking protection must articulate  
24 compelling reasons, supported by specific facts and legal justification, for the  
25 requested sealing order. Again, competent evidence supporting the application to  
26 file documents under seal must be provided by declaration.

27 Any document that is not confidential, privileged, or otherwise protectable  
28 in its entirety will not be filed under seal if the confidential portions can be

1 redacted. If documents can be redacted, then a redacted version for public  
2 viewing, omitting only the confidential, privileged, or otherwise protectable  
3 portions of the document, shall be filed. Any application that seeks to file  
4 documents under seal in their entirety should include an explanation of why  
5 redaction is not feasible.

6 4. DEFINITIONS

7 4.1 Action: this pending federal lawsuit.

8 4.2 Challenging Party: a Party or Non-Party that challenges the  
9 designation of information or items under this Order.

10 4.3 “CONFIDENTIAL” Information or Items: information (regardless of  
11 how it is generated, stored or maintained) or tangible things that qualify for  
12 protection under Federal Rule of Civil Procedure 26(c), and as specified above in  
13 the Good Cause Statement.

14 4.4 Counsel: Outside Counsel of Record and House Counsel (as well as  
15 their support staff).

16 4.5 Designating Party: a Party or Non-Party that designates information  
17 or items that it produces in disclosures or in responses to discovery as  
18 “CONFIDENTIAL.”

19 4.6 Disclosure or Discovery Material: all items or information,  
20 regardless of the medium or manner in which it is generated, stored, or  
21 maintained (including, among other things, testimony, transcripts, and tangible  
22 things), that are produced or generated in disclosures or responses to discovery.

23 4.7 Expert: a person with specialized knowledge or experience in a  
24 matter pertinent to the litigation who has been retained by a Party or its counsel  
25 to serve as an expert witness or as a consultant in this Action.

26 4.8 House Counsel: attorneys who are employees of a party to this  
27 Action. House Counsel does not include Outside Counsel of Record or any other  
28 outside counsel.

1           4.9 Non-Party: any natural person, partnership, corporation, association  
2 or other legal entity not named as a Party to this action.

3           4.10 Outside Counsel of Record: attorneys who are not employees of a  
4 party to this Action but are retained to represent a party to this Action and have  
5 appeared in this Action on behalf of that party or are affiliated with a law firm  
6 that has appeared on behalf of that party, and includes support staff.

7           4.11 Party: any party to this Action, including all of its officers, directors,  
8 employees, consultants, retained experts, and Outside Counsel of Record (and  
9 their support staffs).

10          4.12 Producing Party: a Party or Non-Party that produces Disclosure or  
11 Discovery Material in this Action.

12          4.13 Professional Vendors: persons or entities that provide litigation  
13 support services (e.g., photocopying, videotaping, translating, preparing exhibits  
14 or demonstrations, and organizing, storing, or retrieving data in any form or  
15 medium) and their employees and subcontractors.

16          4.14 Protected Material: any Disclosure or Discovery Material that is  
17 designated as “CONFIDENTIAL.”

18          4.15 Receiving Party: a Party that receives Disclosure or Discovery  
19 Material from a Producing Party.

20          5.     SCOPE

21           The protections conferred by this Stipulation and Order cover not only  
22 Protected Material (as defined above), but also (1) any information copied or  
23 extracted from Protected Material; (2) all copies, excerpts, summaries, or  
24 compilations of Protected Material; and (3) any testimony, conversations, or  
25 presentations by Parties or their Counsel that might reveal Protected Material.

26           Any use of Protected Material at trial shall be governed by the orders of the  
27 trial judge and other applicable authorities. This Order does not govern the use of  
28 Protected Material at trial.

1           6.     DURATION

2           Once a case proceeds to trial, information that was designated as  
3     CONFIDENTIAL or maintained pursuant to this protective order used or  
4     introduced as an exhibit at trial becomes public and will be presumptively  
5     available to all members of the public, including the press, unless compelling  
6     reasons supported by specific factual findings to proceed otherwise are made to  
7     the trial judge in advance of the trial. See Kamakana, 447 F.3d at 1180-81  
8     (distinguishing “good cause” showing for sealing documents produced in  
9     discovery from “compelling reasons” standard when merits-related documents  
10    are part of court record). Accordingly, the terms of this protective order do not  
11    extend beyond the commencement of the trial.

12           7.     DESIGNATING PROTECTED MATERIAL

13           7.1    Exercise of Restraint and Care in Designating Material for

14           Protection. Each Party or Non-Party that designates information or items  
15    for protection under this Order must take care to limit any such designation to  
16    specific material that qualifies under the appropriate standards. The Designating  
17    Party must designate for protection only those parts of material, documents,  
18    items or oral or written communications that qualify so that other portions of the  
19    material, documents, items or communications for which protection is not  
20    warranted are not swept unjustifiably within the ambit of this Order.

21           Mass, indiscriminate or routinized designations are prohibited.  
22    Designations that are shown to be clearly unjustified or that have been made for  
23    an improper purpose (e.g., to unnecessarily encumber the case development  
24    process or to impose unnecessary expenses and burdens on other parties) may  
25    expose the Designating Party to sanctions.

26           If it comes to a Designating Party’s attention that information or items that  
27    it designated for protection do not qualify for protection, that Designating Party  
28    must promptly notify all other Parties that it is withdrawing the inapplicable

1 designation.

2 7.2 Manner and Timing of Designations. Except as otherwise provided  
3 in this Order, or as otherwise stipulated or ordered, Disclosure of Discovery  
4 Material that qualifies for protection under this Order must be clearly so  
5 designated before the material is disclosed or produced.

6 Designation in conformity with this Order requires:

7 (a) for information in documentary form (e.g., paper or electronic  
8 documents, but excluding transcripts of depositions or other pretrial or trial  
9 proceedings), that the Producing Party affix at a minimum, the legend  
10 “CONFIDENTIAL” (hereinafter “CONFIDENTIAL legend”), to each page that  
11 contains protected material. If only a portion of the material on a page qualifies  
12 for protection, the Producing Party also must clearly identify the protected  
13 portion(s) (e.g., by making appropriate markings in the margins).

14 A Party or Non-Party that makes original documents available for  
15 inspection need not designate them for protection until after the inspecting Party  
16 has indicated which documents it would like copied and produced. During the  
17 inspection and before the designation, all of the material made available for  
18 inspection shall be deemed “CONFIDENTIAL.” After the inspecting Party has  
19 identified the documents it wants copied and produced, the Producing Party must  
20 determine which documents, or portions thereof, qualify for protection under this  
21 Order. Then, before producing the specified documents, the Producing Party  
22 must affix the “CONFIDENTIAL legend” to each page that contains Protected  
23 Material. If only a portion of the material on a page qualifies for protection, the  
24 Producing Party also must clearly identify the protected portion(s) (e.g., by  
25 making appropriate markings in the margins).

26 (b) for testimony given in depositions that the Designating Party  
27 identifies the Disclosure or Discovery Material on the record, before the close of  
28 the deposition all protected testimony.



1 (c) for information produced in some form other than documentary  
2 and for any other tangible items, that the Producing Party affix in a prominent  
3 place on the exterior of the container or containers in which the information is  
4 stored the legend “CONFIDENTIAL.” If only a portion or portions of the  
5 information warrants protection, the Producing Party, to the extent practicable,  
6 shall identify the protected portion(s).

7 7.3 Inadvertent Failures to Designate. If timely corrected, an inadvertent  
8 failure to designate qualified information or items does not, standing alone,  
9 waive the Designating Party’s right to secure protection under this Order for such  
10 material. Upon timely correction of a designation, the Receiving Party must  
11 make reasonable efforts to assure that the material is treated in accordance with  
12 the provisions of this Order.

13 8. CHALLENGING CONFIDENTIALITY DESIGNATIONS

14 8.1. Timing of Challenges. Any Party or Non-Party may challenge a  
15 designation of confidentiality at any time that is consistent with the Court’s  
16 Scheduling Order.

17 8.2 Meet and Confer. The Challenging Party shall initiate the dispute  
18 resolution process under Local Rule 37-1 et seq.

19 8.3 Joint Stipulation. Any challenge submitted to the Court shall be via a  
20 joint stipulation pursuant to Local Rule 37-2.

21 8.4 The burden of persuasion in any such challenge proceeding shall be on  
22 the Designating Party. Frivolous challenges, and those made for an improper  
23 purpose (e.g., to harass or impose unnecessary expenses and burdens on other  
24 parties) may expose the Challenging Party to sanctions. Unless the Designating  
25 Party has waived or withdrawn the confidentiality designation, all parties shall  
26 continue to afford the material in question the level of protection to which it is  
27 entitled under the Producing Party’s designation until the Court rules on the  
28 challenge.



1           9.     ACCESS TO AND USE OF PROTECTED MATERIAL

2           9.1 Basic Principles. A Receiving Party may use Protected Material that is  
3 disclosed or produced by another Party or by a Non-Party in connection with this  
4 Action only for prosecuting, defending or attempting to settle this Action. Such  
5 Protected Material may be disclosed only to the categories of persons and under  
6 the conditions described in this Order. When the Action has been terminated, a  
7 Receiving Party must comply with the provisions of section 15 below (FINAL  
8 DISPOSITION).

9           Protected Material must be stored and maintained by a Receiving Party at a  
10 location and in a secure manner that ensures that access is limited to the persons  
11 authorized under this Order.

12           9.2 Disclosure of “CONFIDENTIAL” Information or Items. Unless  
13 otherwise ordered by the court or permitted in writing by the Designating Party,  
14 a Receiving Party may disclose any information or item designated  
15 “CONFIDENTIAL” only to:

16                   (a) the Receiving Party’s Outside Counsel of Record in this Action,  
17 as well as employees of said Outside Counsel of Record to whom it is reasonably  
18 necessary to disclose the information for this Action;

19                   (b) the officers, directors, and employees (including House Counsel)  
20 of the Receiving Party to whom disclosure is reasonably necessary for this  
21 Action;

22                   (c) Experts (as defined in this Order) of the Receiving Party to whom  
23 disclosure is reasonably necessary for this Action and who have signed the  
24 “Acknowledgment and Agreement to Be Bound” (Exhibit A);

25                   (d) the court and its personnel;

26                   (e) court reporters and their staff;

27                   (f) professional jury or trial consultants, mock jurors, and  
28 Professional Vendors to whom disclosure is reasonably necessary for this Action

1 and who have signed the “Acknowledgment and Agreement to Be Bound”  
2 (Exhibit A);

3 (g) the author or recipient of a document containing the information  
4 or a custodian or other person who otherwise possessed or knew the information;

5 (h) during their depositions, witnesses, and attorneys for witnesses,

6 in the Action to whom disclosure is reasonably necessary provided: (1) the

7 deposing party requests that the witness sign the form attached as Exhibit A

8 hereto; and (2) they will not be permitted to keep any confidential information

9 unless they sign the “Acknowledgment and Agreement to Be Bound” (Exhibit

10 A), unless otherwise agreed by the Designating Party or ordered by the court.

11 Pages of transcribed deposition testimony or exhibits to depositions that reveal

12 Protected Material may be separately bound by the court reporter and may not be

13 disclosed to anyone except as permitted under this Stipulated Protective Order;

14 and

15 (i) any mediators or settlement officers and their supporting

16 personnel, mutually agreed upon by any of the parties engaged in settlement

17 discussions.

18 10. PROTECTED MATERIAL SUBPOENAED OR ORDERED

19 PRODUCED IN OTHER LITIGATION

20 If a Party is served with a subpoena or a court order issued in other

21 litigation that compels disclosure of any information or items designated in this

22 Action as “CONFIDENTIAL,” that Party must:

23 (a) promptly notify in writing the Designating Party. Such

24 notification shall include a copy of the subpoena or court order;

25 (b) promptly notify in writing the party who caused the subpoena or

26 order to issue in the other litigation that some or all of the material covered by

27 the subpoena or order is subject to this Protective Order. Such notification shall

28 include a copy of this Stipulated Protective Order; and

1 (c) cooperate with respect to all reasonable procedures sought to be  
2 pursued by the Designating Party whose Protected Material may be affected. If  
3 the Designating Party timely seeks a protective order, the Party served with the  
4 subpoena or court order shall not produce any information designated in this  
5 action as “CONFIDENTIAL” before a determination by the court from which  
6 the subpoena or order issued, unless the Party has obtained the Designating  
7 Party’s permission. The Designating Party shall bear the burden and expense of  
8 seeking protection in that court of its confidential material and nothing in these  
9 provisions should be construed as authorizing or encouraging a Receiving Party  
10 in this Action to disobey a lawful directive from another court.

11 11. A NON-PARTY’S PROTECTED MATERIAL SOUGHT TO  
12 BE PRODUCED IN THIS LITIGATION

13 (a) The terms of this Order are applicable to information produced by  
14 a Non-Party in this Action and designated as “CONFIDENTIAL.” Such  
15 information produced by Non-Parties in connection with this litigation is  
16 protected by the remedies and relief provided by this Order. Nothing in these  
17 provisions should be construed as prohibiting a Non-Party from seeking  
18 additional protections.

19 (b) In the event that a Party is required, by a valid discovery request,  
20 to produce a Non-Party’s confidential information in its possession, and the Party  
21 is subject to an agreement with the Non-Party not to produce the Non-Party’s  
22 confidential information, then the Party shall:

23 (1) promptly notify in writing the Requesting Party and the Non-  
24 Party that some or all of the information requested is subject to a confidentiality  
25 agreement with a Non-Party;

26 (2) promptly provide the Non-Party with a copy of the Stipulated  
27 Protective Order in this Action, the relevant discovery request(s), and a  
28 reasonably specific description of the information requested; and

1 (3) make the information requested available for inspection by the  
2 Non-Party, if requested.

3 (c) If the Non-Party fails to seek a protective order from this court  
4 within 14 days of receiving the notice and accompanying information, the  
5 Receiving Party may produce the Non-Party's confidential information  
6 responsive to the discovery request. If the Non-Party timely seeks a protective  
7 order, the Receiving Party shall not produce any information in its possession or  
8 control that is subject to the confidentiality agreement with the Non-Party before  
9 a determination by the court. Absent a court order to the contrary, the Non-Party  
10 shall bear the burden and expense of seeking protection in this court of its  
11 Protected Material.

12 12. UNAUTHORIZED DISCLOSURE OF PROTECTED  
13 MATERIAL

14 If a Receiving Party learns that, by inadvertence or otherwise, it has  
15 disclosed Protected Material to any person or in any circumstance not authorized  
16 under this Stipulated Protective Order, the Receiving Party must immediately (a)  
17 notify in writing the Designating Party of the unauthorized disclosures, (b) use  
18 its best efforts to retrieve all unauthorized copies of the Protected Material, (c)  
19 inform the person or persons to whom unauthorized disclosures were made of all  
20 the terms of this Order, and (d) request such person or persons to execute the  
21 "Acknowledgment an Agreement to Be Bound" attached hereto as Exhibit A.

22 13. INADVERTENT PRODUCTION OF PRIVILEGED OR  
23 OTHERWISE PROTECTED MATERIAL

24 When a Producing Party gives notice to Receiving Parties that certain  
25 inadvertently produced material is subject to a claim of privilege or other  
26 protection, the obligations of the Receiving Parties are those set forth in Federal  
27 Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify  
28 whatever procedure may be established in an e-discovery order that provides for

1 production without prior privilege review. Pursuant to Federal Rule of Evidence  
2 502(d) and (e), insofar as the parties reach an agreement on the effect of  
3 disclosure of a communication or information covered by the attorney-client  
4 privilege or work product protection, the parties may incorporate their agreement  
5 in the stipulated protective order submitted to the court.

6 14. MISCELLANEOUS

7 14.1 Right to Further Relief. Nothing in this Order abridges the right of  
8 any person to seek its modification by the Court in the future.

9 14.2 Right to Assert Other Objections. By stipulating to the entry of this  
10 Protective Order, no Party waives any right it otherwise would have to object to  
11 disclosing or producing any information or item on any ground not addressed in  
12 this Stipulated Protective Order. Similarly, no Party waives any right to object on  
13 any ground to use in evidence of any of the material covered by this Protective  
14 Order.

15 14.3 Filing Protected Material. A Party that seeks to file under seal any  
16 Protected Material must comply with Local Civil Rule 79-5. Protected Material  
17 may only be filed under seal pursuant to a court order authorizing the sealing of  
18 the specific Protected Material. If a Party's request to file Protected Material  
19 under seal is denied by the court, then the Receiving Party may file the  
20 information in the public record unless otherwise instructed by the court.

21 15. FINAL DISPOSITION

22 After the final disposition of this Action, as defined in paragraph 6, within  
23 60 days of a written request by the Designating Party, each Receiving Party must  
24 return all Protected Material to the Producing Party or destroy such material. As  
25 used in this subdivision, "all Protected Material" includes all copies, abstracts,  
26 compilations, summaries, and any other format reproducing or capturing any of  
27 the Protected Material. Whether the Protected Material is returned or destroyed,  
28 the Receiving Party must submit a written certification to the Producing Party

(and, if not the same person or entity, to the Designating Party) by the 60-day deadline that (1) identifies (by category, where appropriate) all the Protected Material that was returned or destroyed and (2) affirms that the Receiving Party has not retained any copies, abstracts, compilations, summaries or any other format reproducing or capturing any of the Protected Material. Notwithstanding this provision, Counsel are entitled to retain an archival copy of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda, correspondence, deposition and trial exhibits, expert reports, attorney work product, and consultant and expert work product, even if such materials contain Protected Material. Any such archival copies that contain or constitute Protected Material remain subject to this Protective Order as set forth in Section 6

16. VIOLATION

Any violation of this Order may be punished by appropriate measures including, without limitation, contempt proceedings and/or monetary sanctions.

**FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.**

DATED: 10/29/2024

  
\_\_\_\_\_  
JOHN D. EARLY  
United States Magistrate Judge

**EXHIBIT A**

**CERTIFICATION RE CONFIDENTIAL DISCOVERY MATERIALS**

I hereby acknowledge that I, \_\_\_\_\_ [NAME],  
\_\_\_\_\_[POSITION AND EMPLOYER], am  
about to receive Confidential Materials supplied in connection with the Proceeding, (*Brandon Avila v. Tourneau LLC et al.*; CASE NO.: 8:24-cv-00939-FWS-JDE). I certify that I  
understand that the Confidential Materials are provided to me subject to the terms and  
restrictions of the Stipulation and Protective Order filed in this Proceeding. I have been given  
a copy of the Stipulation and Protective Order; I have read it, and I agree to be bound by its  
terms.

I understand that Confidential Materials, as defined in the Stipulation and Protective  
Order, including any notes or other records that may be made regarding any such materials,  
shall not be Disclosed to anyone except as expressly permitted by the Stipulation and  
Protective Order. I will not copy or use, except solely for the purposes of this Proceeding, any  
Confidential Materials obtained pursuant to this Protective Order, except as provided therein  
or otherwise ordered by the Court in the Proceeding.

I further understand that I am to retain all copies of all Confidential Materials provided  
to me in the Proceeding in a secure manner, and that all copies of such Materials are to remain  
in my personal custody until termination of my participation in this Proceeding, whereupon the  
copies of such Materials will be returned to counsel who provided me with such Materials.

I declare under penalty of perjury, under the laws of the State of California, that the  
foregoing is true and correct. Executed this \_\_\_\_ day of \_\_\_\_, 20\_\_, at \_\_\_\_\_

DATED: \_\_\_\_\_ BY: \_\_\_\_\_

Signature

Title

Address

City, State, Zip

Telephone Number